



CAJ/64/11

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

ADMINISTRATIVE AND LEGAL COMMITTEE

Sixty-Fourth Session
Geneva, October 17, 2011

REPORT ON THE CONCLUSIONS

adopted by the Administrative and Legal Committee

Opening of the session

1. The Administrative and Legal Committee (CAJ) held its sixty-fourth session in Geneva on October 17, 2011, under the Chairmanship of Mr. Lü Bo (China).
2. The session was opened by the Chair, who welcomed the participants.
3. The list of participants is reproduced in the Annex to this report.
4. The Chair informed the CAJ that Peru had deposited its instrument of accession to the 1991 Act of the UPOV Convention on July 8, 2011, and had become the seventieth member of the Union on August 8, 2011.
5. The Chair confirmed that the report of the sixty-third session of the CAJ held in Geneva on April 7, 2011, as document CAJ/63/10, had been adopted by correspondence and was available on the UPOV website.

Adoption of the agenda

6. The CAJ adopted the agenda, as presented in document CAJ/64/1, with the addition of document CAJ/64/7 Add. under agenda item 7(b).

Development of information materials concerning the UPOV Convention

7. The CAJ considered documents CAJ/64/2 and CAJ/64/3.
8. The CAJ endorsed the proposal to revise the “UPOV Model Plant Breeders’ Rights Gazette” (document UPOV/INF/5), as set out in paragraphs 8 and 9 of document CAJ/64/2.
9. The CAJ noted the information concerning the program for the sixth session of the Administrative and Legal Committee Advisory Group (CAJ-AG), to be held in Geneva on October 18, 2011, as set out in paragraph 11 of document CAJ/64/2, and noted that comments on the explanatory notes under consideration by the CAJ-AG had been received by the Russian Federation, European Coordination Via Campesina (ECVC), European Seed Association (ESA) and the International Community of Breeders of Asexually Reproduced Ornamental and Fruit Varieties (CIOPORA). The CAJ noted that those comments had been notified to the CAJ and posted on the CAJ-AG section of the UPOV website. It also noted that the CAJ-AG would consider those comments at its sixth session.
10. The CAJ noted the information provided in document CAJ/64/3 “Alternative Dispute Settlement Mechanisms” and its Annexes.
11. The CAJ agreed to the development of a document, for its sixty-fifth session in March 2012, to provide information on alternative dispute settlement mechanisms for breeders’ rights. The CAJ agreed that a clarification should be included in the document to explain the nature of the document and, in particular, to specify that the purpose of the document was the provision of information and not to provide UPOV dispute settlement mechanisms.

TGP documents

12. The CAJ considered document CAJ/64/4.
13. The CAJ agreed to propose to the Council, at its forty-fifth ordinary session, to be held in Geneva on October 20, 2011, that it amend document TGP/7 “Development of Test Guidelines”, as set out in paragraph 13 of document CAJ/64/4 (reproduced below):

TGP/7/2 – Annex 1: TG Template

“4.1.4 Number of Plants / Parts of Plants to be Examined

~~“Unless otherwise indicated, all observations for the purposes of distinctness should be made on { x } plants or parts taken from each of { x } plants, disregarding any off-type plants for the purposes of distinctness, all observations on single plants should be made on { x } plants or parts taken from each of { x } plants and any other observations made on all plants in the test, disregarding any off-type plants.”~~

“{ **ASW 7(b)** (Chapter 4.1.4) – Number of Plants / Parts of Plants to be Examined }”

TGP/7/2 – Annex 2: Additional Standard Wording (ASW) for the TG Template

“ASW 7(b) (Chapter 4.1.4) – Number of plants / parts of plants to be examined

“The following sentence may be added where appropriate:

““In the case of observations of parts ~~of~~ taken from single plants, the number of parts to be taken from each of the plants should be { y }.””

14. The CAJ approved the program for the development of TGP documents, as set out in the Annex to document CAJ/64/4.

Molecular Techniques

15. The CAJ considered document CAJ/64/5.

16. The CAJ noted the developments concerning document BMT/DUS “Possible Use of Molecular Markers in the Examination of Distinctness, Uniformity and Stability (DUS)”.

17. The CAJ noted that the CAJ would be invited to consider document TGP/15 Draft 2 at its sixty-fifth session, in March 2012, and that the title of document TGP/15, currently “New Types of Characteristics”, would need to be amended.

18. The CAJ noted the program for the thirteenth session of the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT), to be held in Brasilia, Brazil, from November 22 to 24, 2011, including the dedication of November 22, 2011 (“Breeders’ Day”), for the items on the use of molecular techniques in the consideration of essential derivation and in variety identification.

19. The CAJ requested that a presentation on matters considered by the BMT, at its thirteenth session, with particular regard to the use of molecular techniques in the consideration of essential derivation and in variety identification, be made at the sixty-fifth session of the CAJ in March 2012.

Variety denominations

20. The CAJ considered document CAJ/64/6.

21. In relation to the possible solutions presented in paragraph 6 of document CAJ/64/6, the Delegation of the European Union expressed a preference for the creation of a new denomination class in document UPOV/INF/12/3 “Explanatory notes on variety denominations under the UPOV Convention” to cover relevant genera, e.g. *Eupatorium* L., *Eutrochium* Raf., *Ageratina* Spach, etc.;

22. The CAJ noted that the intervention made by the Delegation of the European Union would be transmitted to the Technical Working Party for Ornamental Plants and Forest Trees (TWO) at its forty-fourth session to be held from November 7 to 11, 2011, in Fukuyama City, Hiroshima Prefecture, Japan.

23. The CAJ noted the possible solutions, presented in paragraph 6 of document CAJ/64/6, that would be considered by the TWO, at its forty-fourth session, and noted that the matter would be considered by the Technical Committee at its forty-eighth session and by the CAJ at its sixty-fifth session in March 2012.

Information and databases*(a) UPOV information databases*

24. The CAJ considered documents CAJ/64/7 and CAJ/64/7 Add.

25. The CAJ noted the developments concerning the program for improvements to the Plant Variety Database as set out in document CAJ/64/7 “UPOV information databases”. In particular, it noted that UPOV codes had been provisionally allocated to all data in the 2011-04 version of the Plant Variety Database and that those UPOV codes suggested by the Office of the Union would be included if approved by the relevant contributors. The CAJ noted the on-going work with regard to assistance to data contributors.

26. The CAJ noted the demonstration of the pre-launch version of the web-based version of the Plant Variety Database, with the proposed name “PLUTO”. The CAJ agreed that Annex I to document CAJ/64/7 “Program for Improvements to the Plant Variety Database”, Section 1 “Title of the Plant Variety Database” should be amended in accordance with any change in the name of the database. It noted the plans to launch that database in English, French, German and Spanish, in conjunction with the launch of the redesigned UPOV website, scheduled for November 1, 2011.

27. The CAJ noted plans to develop a feature for variety denominations, which would include searching within a denomination class and which would also provide a similarity index. The feature would include the variety denomination searching tool developed by the Community Plant Variety Office of the European Union (CPVO).

28. With regard to the Plant Variety Database, the following suggestions were made at the session for features to be included:

- (a) information on the latest date of submission by the contributors;
- (b) explanation of search rules; and
- (c) facility to save search settings.

29. The CAJ agreed to invite the Consultative Committee, at its eighty-second session to be held in Geneva on October 19, 2011, to consider whether to require users of the Plant Variety Database to register in order that the use of the Plant Variety Database could be monitored, with a view to using that feedback for future improvements. It was emphasized that this would still mean that the Plant Variety Database would still be freely accessible.

30. The CAJ agreed that the Office of the Union should explore options for contributors to the Plant Variety Database to provide data in the original alphabet, in addition to the data being provided in Latin alphabet. It was agreed that all data would still be required in Latin alphabet and that a suitable encoding standard would be proposed for data provided in non-Latin alphabet.

(b) Exchangeable software

31. The CAJ considered document CAJ/64/8.

32. The CAJ noted the report on developments concerning the translation of the user guide for the SIRIUS system into English.
33. The CAJ approved the revision of document UPOV/INF/16 “Exchangeable Software”, as set out in paragraph 11 of document CAJ/64/8.
34. The CAJ noted the accessibility to members of the Union of the Centralised Database on Variety Denominations of the Community Plant Variety Office of the European Union (CPVO) as set out in paragraphs 14 and 15 of document CAJ/64/8.
35. The CAJ noted that the software for checking variety denominations developed by the CPVO and *Groupe d'étude et de contrôle des variétés et des semences* (GEVES) had been made available to members of the Union as set out in paragraph 17 of document CAJ/64/8.
36. The CAJ agreed to ask the Consultative Committee to review how offers for assistance made by members of the Union might be presented in a coordinated approach.
37. The CAJ noted the information in respect to additional software for document UPOV/INF/16 “Exchangeable Software”, presented in paragraphs 22 to 26 of document CAJ/64/8.

(c) *Electronic application systems*

38. The CAJ considered document CAJ/64/9 and the presentations made by the Office of the Union, CPVO and the World Intellectual Property Organization (WIPO). The CAJ noted that copies of those presentations would be made available on the CAJ section of the UPOV website.
39. The CAJ requested the Office of the Union to issue a survey on the extent to which members of the Union use the standard references of the UPOV Model Application Form in their application forms and to present the results of that survey to the CAJ at its sixty-sixth session in October 2012.
40. The CAJ endorsed the matters set out in paragraph 40 of document CAJ/64/9 as a basis for the continuation of meetings between experts of UPOV, WIPO, CPVO and the International Seed Federation (ISF) in order to develop proposals for consideration by the CAJ.

DUS examination of seed-propagated varieties of Papaya

41. The CAJ considered document CAJ/64/10.
42. The CAJ noted the conclusion of the TC, at its forty-seventh session, held in Geneva from April 4 to 6, 2011, as set out in paragraph 30 of document CAJ/64/10. The CAJ agreed that the matter should be considered further by the CAJ at its sixty-fifth session, on the basis of the conclusions of the TC at its forty-eighth session, in March 2012.

Program for the sixty-fifth session

43. The CAJ agreed the following program for its sixty-fifth session, to be held in Geneva on March 29, 2012, and anticipated that a full day would be necessary to cover the program:

1. Opening of the session
2. Adoption of the agenda
3. Oral report on developments in the Technical Committee
4. Development of information materials concerning the UPOV Convention
5. TGP documents
6. Molecular techniques
7. Variety denominations
8. Information and databases
 - (a) UPOV information databases
 - (b) Exchangeable software
 - (c) Electronic application systems
9. DUS examination of seed-propagated varieties of Papaya
10. Program for the sixty-sixth session
11. Adoption of the report on the conclusions (if time permits)
12. Closing of the session

44. This report was adopted by the Administrative and Legal Committee at the close of its session on October 17, 2011.

[Annex follows]

ANNEXE / ANNEX / ANLAGE / ANEXO

LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS /
TEILNEHMERLISTE / LISTA DE PARTICIPANTES

(dans l'ordre alphabétique des noms français des membres/
in the alphabetical order of the names in French of the members/
in alphabetischer Reihenfolge der französischen Namen der Mitglieder/
por orden alfabético de los nombres en francés de los miembros)

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